



February 22, 2002

ENGROSSED SENATE BILL No. 331

DIGEST OF SB 331 (Updated February 20, 2002 5:59 PM - DI 103)

Citations Affected: IC 6-1.1; noncode.

Synopsis: Fire protection borrowing levy appeals. Permits a township approved for an excessive property tax levy based on borrowing for fire protection to phase in the approved increase over a period not to exceed three years. Revises population parameters to make them consistent with the 2000 decennial census.

Effective: July 1, 2002.

Merritt

(HOUSE SPONSOR — LYTLÉ)

January 8, 2002, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 24, 2002, reported favorably — Do Pass.

January 28, 2002, read second time, ordered engrossed. Engrossed.

January 31, 2002, read third time, passed. Yeas 49, nays 1.

HOUSE ACTION

February 5, 2002, read first time and referred to Committee on Ways and Means.

February 21, 2002, reported — Do Pass.

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ES 331—LS 6839/DI 52+



February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 331

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-18.5-13, AS AMENDED BY P.L.181-2001,
2 SECTION 1, AND AS AMENDED BY P.L.198-2001, SECTION 55,
3 IS AMENDED AND CORRECTED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2002]: Sec. 13. With respect to an appeal filed
5 under section 12 of this chapter, the local government tax control board
6 may recommend that a civil taxing unit receive any one (1) or more of
7 the following types of relief:
- 8 (1) Permission to the civil taxing unit to reallocate the amount set
9 aside as a property tax replacement credit as required by
10 IC 6-3.5-1.1 for a purpose other than property tax relief. However,
11 whenever this occurs, the local government tax control board
12 shall also state the amount to be reallocated.
- 13 (2) Permission to the civil taxing unit to increase its levy in excess
14 of the limitations established under section 3 of this chapter, if in
15 the judgment of the local government tax control board the
16 increase is reasonably necessary due to increased costs of the civil
17 taxing unit resulting from annexation, consolidation, or other

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extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the civil taxing unit's average three (3) year growth factor, as determined in section 2(2)(a) (STEP THREE) of this chapter *for calendar years ending before January 1, 2006, or section 2(b) (STEP THREE) of this chapter for calendar years beginning after December 31, 2005*, exceeds one and one-tenth (1.1). However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision may not exceed an amount equal to the remainder of:

(A) the amount of ad valorem property taxes the civil taxing unit could impose for the ensuing calendar year under section 3 of this chapter if at STEP TWO of subsection (a) or (b), as the case may be, the amount determined in STEP THREE of section 2(2)(a) of this chapter *for calendar years ending before January 1, 2006, or in STEP THREE of section 2(b) of this chapter for calendar years beginning after December 31, 2005*, is substituted for the amount determined under STEP FIVE of section 2(2)(a) of this chapter *for calendar years ending before January 1, 2006, or under STEP FIVE of section 2(b) of this chapter for calendar years beginning after December 31, 2005*; minus

(B) the amount of ad valorem property taxes the civil taxing unit could impose under section 3 of this chapter for the ensuing calendar year.

In addition, before the local government tax control board may recommend the relief allowed under this subdivision, the civil

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taxing unit must show a need for the increased levy because of special circumstances, and the local government tax control board must consider other sources of revenue and other means of relief. (5) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under ~~IC 6-1-1-18.5~~; this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(6) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by

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distributions made to a civil taxing unit by the state.

(7) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(8) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(9) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than ~~one hundred twenty-nine thousand (129,000)~~ but less than one hundred thirty thousand six hundred (130,600); **one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);**

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(ii) a city having a population of more than ~~forty-three thousand seven hundred (43,700)~~ but less than ~~forty-four thousand (44,000)~~; **fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);**

(iii) a city having a population of more than ~~twenty-five thousand five hundred (25,500)~~ but less than ~~twenty-six thousand (26,000)~~; **twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);**

(iv) a city having a population of more than ~~fifteen thousand three hundred fifty (15,350)~~ but less than ~~fifteen thousand five hundred seventy (15,570)~~; **fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600);** or

(v) a city having a population of more than ~~five thousand six hundred fifty (5,650)~~ but less than ~~five thousand seven hundred eight (5,708)~~; **seven thousand (7,000) but less than seven thousand three hundred (7,300);** and

(B) the increase is necessary to provide funding to undertake removal (as defined in ~~IC 13-7-8.7-1~~) *IC 13-11-2-187*) and remedial action (as defined in ~~IC 13-7-8.7-1~~) *IC 13-11-2-185*) relating to hazardous substances (as defined in ~~IC 13-7-8.7-1~~) *IC 13-11-2-98*) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(10) Permission for a county having a population of more than ~~seventy-eight thousand (78,000)~~ but less than ~~eighty-five thousand (85,000)~~ **eighty thousand (80,000) but less than ninety thousand (90,000)** to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail



or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991. Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(12) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three



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(3) years. *A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.*

*(13) Permission to a city having a population of more than ~~twenty-three thousand five hundred (23,500)~~ but less than ~~twenty-four thousand (24,000)~~ **twenty-nine thousand (29,000)** but less than **thirty-one thousand (31,000)** to increase its levy in excess of the limitations established under section 3 of this chapter if:*

(A) an appeal was granted to the city under subdivision (1) in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned to have reallocated in 2001 under subdivision (1) for a purpose other than property tax relief.

SECTION 2. [EFFECTIVE JULY 1, 2002] (a) IC 6-1.1-18.5-13, as amended by this act, applies to property taxes first due and payable after December 31, 2002.

(b) This SECTION expires January 1, 2004.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 331, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 331 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 11, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 331, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BAUER, Chair

Committee Vote: yeas 25, nays 0.

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